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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,573	03/26/2001	Karl Draganitsch	WRA 32830	7774

7590 01/23/2003

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EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
1761	10

DATE MAILED: 01/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>09/817,573</b>	Applicant(s) <b>Draganitsch et al</b>
	Examiner <b>Lien Tran</b>	Art Unit <b>1761</b>
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<b>Period for Reply</b>		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.		
- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).		
<b>Status</b>		
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Nov. 7, 2002</u>		
2a) <input checked="" type="checkbox"/> This action is <b>FINAL</b> .      2b) <input type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.		
<b>Disposition of Claims</b>		
4) <input checked="" type="checkbox"/> Claim(s) <u>1-6</u> is/are pending in the application.		
4a) Of the above, claim(s) _____ is/are withdrawn from consideration.		
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.		
6) <input checked="" type="checkbox"/> Claim(s) <u>1-6</u> is/are rejected.		
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.		
8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.		
<b>Application Papers</b>		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).		
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
<b>Priority under 35 U.S.C. §§ 119 and 120</b>		
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received.		
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.		
15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		
<b>Attachment(s)</b>		
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____		
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____		
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
6) <input type="checkbox"/> Other: _____		

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1. Claims 1-6 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In the amendment filed Nov. 7, 2002, applicant amended the claims to recite the limitation “at an elevated temperature”; this limitation is not supported by the original disclosure. There is no disclosure of any temperature range; thus, there is no support for “elevated temperature”.

2. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In all relevant claims, the term “elevated temperature” is vague and indefinite because it is a relative term. What would be considered as elevated temperature? The scope of the claims can not be determined from such language; the specification does not provide any guideline on what would be considered as “elevated temperature”.

3. The new 112 rejection is necessitated by amendment.

4. Claims 1-3, 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of Biggs et al for the same reason set forth in paragraph 6 of the previous office action and for the additional reason set forth below.

The limitation “elevated temperature” does not define over the prior art because it is not known what will constitute “elevated temperature”. Since Wolf teaches to press the wafer layers,

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it is expected the wafer layers are still warm so that they can be pressed; this can be considered as elevated temperature because the claims do not define what will be considered as elevated temperature.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of Biggs et al as applied to claims 1-3 and 5-6 above, and further in view of Haas Sr. et al for the same reason set forth in paragraph 7 of the previous office action.

6. In the response filed Nov. 7, 2002, applicant argues the claims define two separate steps of compressing and shaping and nothing in the art of record suggests these two separate steps. This argument is not persuasive because the claims as written do not define separate pressing and shaping steps and that the shaping takes place after the compressing. Wolf teaches to press the wafer layers by rollers; shaping inherently take place during the pressing because the shape of the wafer layers are changed due to the pressing. The claims do not place any particular limitation on the shaping and it is not known what takes place during the shaping step. Claim 1 recites "compressing the first and second wafer sheets and shaping the first and second wafer sheets"; thus, it can be interpreted that the compressing and shaping is done simultaneously. Applicant argues it is highly unlikely that the wafer sheets are shaped during the rolling because the sheets have already been baked and are rather brittle because of the low sugar content. This argument is based on speculation as applicant has not provided any evidence to show that the sheets are brittle. If the sheets are brittle, it is unlikely that they can be pressed because such pressing will break the sheets. The fact that the sheets are pressed indicates that they are not brittle.

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7. Applicant's arguments filed Nov. 7, 2002 have been fully considered but they are not persuasive.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

January 21, 2003

  
LIEN TRAN  
PRIMARY EXAMINER  
Group 1707